

**STATE OF VERMONT  
BOARD OF MEDICAL PRACTICE**

In Re:

DAVID S. CHASE,  
Respondent

Docket No. MPC 15-0203, et al.

**DECISION ON RESPONDENTS MOTION TO RECONSIDER**

Respondent has requested the Board to reconsider its 3/21/04 Decision and Order addressing the motion to reinstate license and dismiss charges. The Attorney General's Office (AGO) opposes the motion to reconsider. A separate hearing on this reconsideration was not required; therefore, the Board convened on 4/29/04 via telephone conference call for deliberation on the motion. The Board Hearing Panel included James D. Cahill, M.D.; Patricia A. King, M.D., Ph.D.; Sharon L. Nicol, Public Member; Katherine M. Ready, Public Member; Toby Sadkin, M.D.; and John B. Webber, Esq., Public Member. Phillip J. Cykon, Esq. served as Presiding Officer for the Board.

Respondent contends that the Board's 3/31/04 Order does not sufficiently deal with the witness problem. He requests the Board to either directly inform the witnesses, or require the AGO to inform the witnesses, that they may speak with Dr. Chase and his attorneys if they so desire. The Board's 3/31/04 Order addressed the issue raised by the letters dated 12/4/03 and 12/18/03. Respondent has the right to interview prospective witnesses without interference from opposing counsel. The Board set forth language from Vermont Supreme Court cases regarding the issue. The Board will summarize that language again:

**WITNESSES ARE THE PROPERTY OF NEITHER PARTY. COUNSEL  
FOR ALL PARTIES HAVE A RIGHT TO INTERVIEW AN ADVERSE  
PARTY'S WITNESSES, THE WITNESS WILLING, IN PRIVATE,  
WITHOUT THE PRESENCE OR CONSENT OF OPPOSING COUNSEL**

It is the Board's opinion that this is the state of the law concerning witness interviews in disciplinary proceedings before the Board. Both the Attorney General's Office and Counsel for Respondent have the responsibility to ensure that any prospective witness in this proceeding has been given a copy of this decision and order. It is incumbent on both parties to make sure that any prospective witness is informed that they can be interviewed by counsel for either party without interference from opposing counsel.

SO ORDERED.

FOR THE BOARD OF MEDICAL PRACTICE:

  
James D. Cahill, M.D., Vice-Chairman

Date

4/29/04

